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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

BETTER NUTRITIONALS, LLC, a  
California Limited Liability Company,

*Plaintiff,*

vs.

GOLI NUTRITION, INC, DEEPAK  
AGARWAL, MICHAEL BITENSKY,  
VMG PARTNERS, VMG PARTNERS V,  
L.P, VMG PARTNERS IV, LP,  
MERICAL INC.,DLA PIPER LLP (US).

*Defendants.*

Case No.

**COMPLAINT FOR STATUTORY  
AND COMMON LAW TORTS,  
INCLUDING SECURITIES FRAUD  
AND COMMON LAW FRAUD,  
VIOLATION OF THE RACKETEER  
INFLUENCED AND CORRUPT  
ORGANIZATIONS ACT,  
MISAPPROPRIATION OF TRADE  
SECRETS IN VIOLATION OF THE  
DEFEND TRADE SECRETS ACT,  
BREACH OF CONTRACT, AIDING  
AND ABETTING, AND, AS TO DLA  
PIPER LLP (US), LEGAL  
MALPRACTICE AND BREACH OF  
FIDUCIARY DUTY**

**DEMAND FOR A JURY TRIAL**

Plaintiff Better Nutritionals, LLC (“Better Nutritionals”), brings this complaint

1 against Defendants Goli Nutrition, Inc. (“Goli”), Deepak Agarwal (“Argarwal”),  
2 Michael Bitensky (“Bitensky”)(Goli, Agarwal, Bitnsky and their affiliated entities are  
3 collectively referred to as the “Goli Defendants”), VMG Partners, VMG Partners V,  
4 L.P, VMG Partners IV, LP (hereinafter the “VMG Defendants”), Mercial Inc.  
5 (“Mercial”) and DLA Piper LLP (US) (hereinafter “DLA Piper”), and alleges as  
6 follows:

### 7 INTRODUCTION

8 1. Goli is a retail seller and marketer of nutritional gummy supplements  
9 founded and at all relevant times operated by Deepak Agarwal and Michael  
10 Bitensky. Goli sells a range of gummy supplements, but its best-selling products  
11 contain apple cider vinegar (“ACV”). Because Goli’s gummy products are classified  
12 as “Dietary Supplements,” they are required to be manufactured in a factory that  
13 complies with stringent federal and state regulations. In 2018, Goli sought out  
14 Plaintiff Better Nutritionals because it had a governmentally approved  
15 manufacturing facility in Gardena California capable of producing the gummy  
16 products Goli required.

17 2. From the start of its relationship with Better Nutritionals, Goli  
18 committed to make Better Nutritionals its exclusive manufacturer, and to purchase as  
19 many gummies as Better Nutritionals could manufacture to meet explosive consumer  
20 demand for Goli’s products. For the first three years, the relationship was smooth  
21 and very profitable for Better Nutritionals. Goli provided sales forecasts or purchase  
22 orders, and Better Nutritionals immediately commenced and quickly completed  
23 production based on those forecasts and purchase orders. Until the summer of 2021,  
24 Goli would routinely and promptly take delivery and pay for the products. Better  
25 Nutritionals maximum production output at the Gardena facility was approximately  
26 400,000 bottles a month. But Goli was projecting a need for *millions of bottles a*  
27 *month*, and, accordingly, advised Better Nutritionals that Better Nutritionals would  
28 have to increase its production capacity significantly. Accordingly, during 2019

1 Better Nutritionals invested heavily to meet Goli's demand and bring the capacity up  
2 to 1,200,000 bottles per month, but Goli demand was for 12-15 million bottles per  
3 month.

4 3. To continue to meet Goli's projected demand, in 2020 Goli convinced  
5 Better Nutritionals to open a new approximately 420,000 square foot facility in  
6 Norco California. The Norco facility required a multi-million-dollar lease deposit to  
7 the landlord, tens of millions of dollars of capital improvements and nearly \$70  
8 million in equipment to make it compliant with state and federal requirements for a  
9 Dietary Supplement manufacturing facility. Goli ensured that Better Nutritionals  
10 would bear the risk of the hundreds of millions of dollars of investment in and  
11 operation of the Norco facility.

12 4. But Goli also coveted the profits that Better Nutritionals was making  
13 and developed a scheme by which it could obtain for itself the profits that would  
14 otherwise accrue to Better Nutritionals. In furtherance of that scheme, Goli  
15 engineered a fraudulent stock swap transaction where Goli obtained a 25% interest  
16 in Better Nutritionals in exchange for a 3% interest in Goli. Those interests were  
17 fraudulently claimed to be equal in value, but the Goli Defendants knew that Goli's  
18 25% interest in Better Nutritionals was substantially more valuable than Better  
19 Nutritionals' 3% interest in Goli.

20 5. Worse yet, the agreements for Goli's purchase of the 25% interest in  
21 Better Nutritionals contained no restrictions on Goli or its ability to shift production  
22 away from Better Nutritionals, but the Stock Swap agreements contained onerous  
23 restrictions, including in particular, onerous overbroad restrictions on the ability of  
24 Better Nutritionals to manufacture for other customers who wanted to purchase  
25 gummy products from Better Nutritionals. Further, Goli insisted that Better  
26 Nutritionals The Defendant DLA Piper represented **both** Better Nutritionals and  
27 Goli in the negotiation and drafting of these agreements, but in fact DLA Piper only  
28 acted in the interests of Goli, and abandoned any duty to its other client, Better

1 Nutritionals. Indeed, Safraz Ishmael, a relative of Defendant Agarwal, was DLA Piper's  
2 Partner ***in charge of DLA Piper's engagement by Better Nutritionals.***

3 6. In 2021 Agarwal and Bitensky, provided Better Nutritionals with  
4 massive formal sales forecasts and written purchase orders when Goli knew it would  
5 not, and could not meet those projections and Goli knew it would not pay Better  
6 Nutritionals for the products it had ordered. In July 2021, Goli sent written purchase  
7 orders for \$281 million worth of product, and gave a verbal purchase order for 300  
8 million bottles to be used for finished product (100 million bottles per year for 3  
9 years). ***But Goli never intended to pay for all of the product it ordered, or to pay***  
10 ***for the bottles it ordered.*** As of this writing Goli has refused to pay for \$180 million  
11 of product it ordered nor has it paid anything for the 300 million bottles it ordered.  
12 In August 2021, without any prior warning, Goli informed Better Nutritionals that it  
13 had cut its projections by over 90%.

14 7. Goli left Better Nutritionals in a desperate position. It had induced  
15 Better Nutritionals to expose itself to well over \$100 million of liabilities in the  
16 construction and operation of the Norco facility in reliance on Goli's ever-larger  
17 sales forecasts and purchase orders. Goli had induced Better Nutritionals to commit  
18 over 90% of its production capacity to Goli, had forced it to terminate relationships  
19 with existing customers and severely limited its ability to service other potential  
20 customers. By fraudulently inducing Better Nutritionals to allocate nearly all of its  
21 production capacity to Goli, by fraudulently misrepresenting and by breaching its  
22 agreement to purchase all that Better Nutritionals could produce, as well as specific  
23 purchase orders Goli had issued, Goli exposed Better Nutritionals to severe liability  
24 from a host of third parties, jeopardizing the future of the company. and the  
25 reputation of the founders in in a close knit industry. As we show further below,  
26 however, Goli had not finished its acts designed to sabotage its former "partner" and  
27 to capture for Goli all the profits Better Nutritionals could earn.

28





18. Venue is proper in this District pursuant to 28 U.S.C. 1391(c) in that Defendants are subject to personal jurisdiction in this District.

### **FACTUAL BACKGROUND**

#### **A. Better Nutritionals' Early Success**

19. Husband and wife Sharon and Odelya Hoffman founded Better Nutritionals in 2015 as a contract manufacturer of nutritional gummy products for third parties, as well as for its own consumer line of gummy vitamins, "Vitamin Friends."

20. Nutritional gummies are nutrient-enriched chewable dietary products similar to soft candy. Gummies are an increasingly popular alternative to traditional multi-vitamins and dietary supplements in pill form because they are easier to ingest and have appealing textures and flavors. As of 2020, nutritional gummies were a \$16 billion industry expected to grow at a significant annual rate over the next decade owing to increasingly health-conscious consumers.

21. Better Nutritionals quickly made a name for itself by manufacturing innovative, high-quality products and by becoming one of the most-highly certified supplement manufacturers in the world. Within a few years, Better Nutritionals attracted a significant number of top-tier domestic and foreign clients, including Abbott Labs, Vita Yummy, Charlotte's Web, Pharmacare (Sambucol), Vesco Vitamins, and Premama Wellness.

22. Manufacturing nutritional gummy products is expensive large-scale chemistry, requiring precise control over a complex and resource-intensive production process. At the front end of the manufacturing process, Better Nutritionals expends significant resources and capital to prepare for production, often before receiving full payment. Thus, as is common in the industry and its commercial partners know, Better Nutritionals is expected to rely and does heavily on the accuracy — and truthfulness — of the purchase orders and sales forecasts it receives from its clients.



1           23. By late 2018, Better Nutritionals had around fifteen employees and  
2 could manufacture approximately 400,000 bottles of nutritional gummy products  
3 each month out of its small factory in Gardena, California, earning annual revenues  
4 of approximately \$4,000,000 and annual profits of \$1,000,000.

5           **B. Goli Enlists Better Nutritionals as Its Sole Manufacturer**

6           24. Deepak Agarwal and Michael Bitensky founded Goli in 2017 as a retail  
7 seller of specially manufactured nutritional supplements, including gummies.

8           25. Goli secured substantial financial backing to develop and market the  
9 world's first apple cider vinegar gummy ("ACV Gummy"), which it linked to a  
10 range of health benefits, including digestion, weight management, immunity, energy,  
11 and improved complexion.

12           26. In late 2018, Goli enlisted Better Nutritionals to be the sole  
13 manufacturer for the ACV Gummy. Before starting production, Better Nutritionals  
14 provided Goli with detailed per-unit production costs that included Better  
15 Nutritionals' costs, such as ingredients and materials, and costs imposed by third  
16 parties, such as packaging suppliers. Goli did not dispute these production costs.

17           27. The Parties agreed to payment terms in November of 2018. Goli agreed  
18 to pay Better Nutritionals an agreed price per bottle (which included ingredients,  
19 supplies, and manufacturing), to advance half of the total cost for each order, and to  
20 pay the remaining amount due when Better Nutritionals released finished and final  
21 batches of gummies from its facility for pickup by Goli (batches that would vary in  
22 quantity depending on Better Nutritionals' production capacity). These payment  
23 terms required Better Nutritionals to incur the full expense of manufacturing the  
24 gummies with only 50% of the total payment in its coffers. Prompt pickup and  
25 payment is standard in the industry, both because the products by government  
26 regulation have a limited shelf life, and because the payment of the balance was  
27 crucial to Better Nutritionals business. Thus, Goli's prompt pickup and payment  
28 after was critical to Better Nutritionals.



1           28. With the payment terms in place, Goli placed its first purchase order for  
2 100,000 bottles, with a second order (contingent on Goli's satisfaction with the first)  
3 to follow for 300,000 bottles. In fact, Goli was so pleased that it increased its second  
4 order from 300,000 bottles to 600,000 bottles but negotiated a lower price-per-bottle.  
5 This lower price remained constant for years, despite rising supply chain costs and  
6 Goli's ever-increasing demand for more product. Goli's third order, coming shortly  
7 after the first two, was for 1,000,000 bottles. Better Nutritionals manufactured and  
8 Goli accepted and paid for each order pursuant to the terms of the Parties' agreement.

9           29. Goli described Better Nutritionals' finished product as "simply  
10 amazing" and "absolutely perfect." In May of 2019, Agarwal assured Better  
11 Nutritionals' co-founder and CEO, Sharon Hoffman ("Hoffman") on a telephone call  
12 that Goli would buy every bottle of Goli gummies Better Nutritionals could produce  
13 and even boasted that Better Nutritionals could not produce bottles fast enough to  
14 meet Goli's needs. Agarwal frequently repeated these statements to Hoffman on  
15 future telephone calls and over Telegram Messenger, emphatically imploring  
16 Hoffman to keep producing greater quantities as quickly as possible.

17           30. Following Goli's promise to buy every bottle Better Nutritionals could  
18 produce, the Parties shifted to a demand-based ordering process typical in the  
19 manufacturing industry. Goli would submit "sales forecasts" and "purchase orders"  
20 at regular intervals (typically monthly) that it expected Better Nutritionals to  
21 immediately act upon by reserving production capacity, ordering ingredients,  
22 beginning production, and planning for future production. In general, retail sellers  
23 like Goli use this process to minimize stocked inventory, which does not generate  
24 value, and avoid paying for warehouse space.

25           31. This process repeated over and over again. Better Nutritionals would  
26 receive a sales forecast and purchase order from Goli and immediately start  
27 production. All the while, Goli communicated only one message: that it needed  
28 more and more product. Better Nutritionals relied on Goli's promise and

1 representation that it would pay for every bottle of gummies that Better Nutritionals  
2 could produce. As it did so, Better Nutritionals continued to take on greater upfront  
3 risk to manufacture a substantially higher volume of gummies at a rapidly increasing  
4 pace.

5 32. Goli's sales forecasts exploded. In May of 2019, Goli projected a June  
6 order of 600,000 bottles per month with a steady monthly rise to approximately 2  
7 million bottles per month by December of 2019. In August of 2019, Goli submitted  
8 a purchase order for a remarkable 50 million bottles for delivery "On-Going Up To  
9 Dec 31, 2020," which equates to an average of 2.9 million bottles per month. To  
10 produce this quantity, Better Nutritionals understood that it needed to expand its  
11 current manufacturing capacity five-fold, as it had reached the limits of its  
12 manufacturing capacity at its small Gardena facility, over 80% of which was already  
13 dedicated to Goli's needs. Goli urged Better Nutritionals to find a way to expand its  
14 capacity, and to do so as soon as possible. As it began evaluating opportunities to  
15 scale-up, Better Nutritionals relied on Goli's history of timely payment for orders  
16 placed to date, representations (often made directly by Agarwal) of sustained high  
17 demand in the future, and Agarwal's promises to pay for every bottle of gummies  
18 that Better Nutritionals could produce.

19 33. Goli proposed that the Parties work together to radically expand Better  
20 Nutritionals' production capacity to meet Goli's purported needs. In order to do so,  
21 Better Nutritionals agreed to open a new facility in Norco California that was capable  
22 of producing the amounts that Goli was committing to purchase.

23 34. Through a series of complex contracts with Better Nutritionals and third  
24 parties in early 2020, Goli engineered a multi-pronged plan to ensure that Better  
25 Nutritionals would become almost entirely dependent upon Goli. In the negotiation  
26 of these contracts, both Goli and Better Nutritionals were represented by Defendant  
27 DLA Piper despite the obvious conflicts of interest presented by the dual  
28 representation. In breach of its fiduciary duties to Better Nutritionals, Defendant

1 DLA Piper prepared agreements that dramatically favored the interests of Goli and  
2 disregarded the interests of Better Nutritionals. A relative of Defendant Argawal,  
3 Safraz Ishmael, the DLA Piper Partner in charge of that firm’s **engagement by Better**  
4 **Nutritionals**, was working behind the scenes to advance the interests of Goli.

5 35. In the lease for a new facility in Norco, California (the “Norco Lease”),  
6 although Better Nutritionals wanted and expected to be the tenant, Defendant  
7 Agarwal said that Goli should be identified as the “tenant” and Better Nutritionals  
8 was identified as a “guarantor. Similarly, in contract for manufacturing-related IT  
9 services and equipment in that facility with Atos IT Solutions and Services, Inc.  
10 (“Atos”), it normally would be expected that Better Nutritionals would be the  
11 customer and Goli would be the guarantor. But Goli was identified as the  
12 “customer” and Better Nutritionals was again identified as a “guarantor.” Better  
13 Nutritionals would be the sole occupant of the new facility and would be the sole  
14 user of the IT services and equipment, but as a result of the contracts, Goli obtained  
15 title to the equipment, and control over Better Nutritionals occupancy, even  
16 though Better Nutritionals made all payments for rent, and paid \$34 million for the  
17 equipment.

18 36. Defendant Agrawal promised that the lease and title to the equipment  
19 would be transferred to Better Nutritionals on request, but nothing in the governing  
20 contracts protected Better Nutritionals’ right to obtain title to the equipment or the  
21 protection that a direct tenancy would have afforded. When Better Nutritionals  
22 requested transfer of the tenancy and the title to the equipment, Defendant Agrawal  
23 refused.

24 37. At the time, Better Nutritionals was a relatively small business that  
25 could serve its pre-Goli customers in its 18,000 square foot Gardena facility, for  
26 which its monthly rent was \$10,000. The facility at Norco was approximately  
27 420,000 square feet, with a monthly rent of \$350,000 – 35 times what Better  
28 Nutritionals had paid at Gardena.

1           38. Better Nutritionals paid rent for the Norco facility, directly to the  
2 landlord as well as paying the \$3,000,000 security deposit, and \$30,000,000 in  
3 capital improvements needed to bring the Norco facility online. Better Nutritionals,  
4 not Goli, paid Atos \$34 million for the equipment and IT services.

5           39. Goli continued to submit ever-increasing sales forecasts and purchase  
6 orders and to pay for Better Nutritionals' finished product. There was no cause for  
7 Better Nutritionals to question whether these orders and sales forecasts reflected  
8 actual consumer demand for Goli's products; the proof seemed to be in the payments  
9 it received. Indeed, Goli repeatedly told Better Nutritionals that it was facing  
10 substantial backlogs in filling orders for Goli gummies, at least in part because, as  
11 Argawal told Sharon Hoffman, Goli was the "#1 Best Selling Health Brand on  
12 Amazon."

13           40. Goli engaged Centerview Partners in 2020 to explore a sale of Goli. .  
14 In January 2020 Goli proposed what it referred to as a "stock swap" in which Goli  
15 would receive a 25% interest in Better Nutritionals and Sharon Hoffman would  
16 receive a 3% interest in Goli, Inc. (the "Stock Swap"). Goli, Agrewal and Bitensky  
17 represented that the 3% interest in Goli Inc. was equal in value to the 25% in Better  
18 Nutritionals. That representation was knowingly false when made. In fact, the 25%  
19 interest in Better Nutritionals was far more valuable than the 3% interest in Goli.

20           41. In January 2020 Sharon and Odelya agreed to the Stock Swap. The  
21 Stock Swap was memorialized in late 2020 in a series of complex agreements  
22 between Sharon and Odelya Hoffman on one hand, as owners of Better Nutritionals,  
23 and certain entities controlled by Defendant Agrewal, and as well as certain entities  
24 controlled by Defendant Bitensky, and Goli. Goli, Agrewal and Bitensky  
25 represented that the 3% interest in Goli remained equal in value to the 25% in Better  
26 Nutritionals. That continued representation was knowingly false when made. In  
27 fact, at all relevant times the 25% interest in Better Nutritionals was far more  
28 valuable than the 3% interest in Goli. Goli has concealed its financial statements and

1 audit reports from Better Nutritionals. On information and belief, those financial  
2 statements and audit reports would contain further evidence of Goli's fraud.

3 42. The agreements memorializing the Stock Swap required Better  
4 Nutritionals to give Goli a right of first refusal should Better Nutritionals desire to  
5 allocate production capacity to another client. Further, Goli insisted on maintaining  
6 a "buffer capacity" over and above the capacity needed based on Goli's sales  
7 forecasts. The buffer capacity was 10% that Goli could immediately demand, plus  
8 an additional 30% buffer capacity above any given sales forecast. As a result, Better  
9 Nutritionals was required to keep idle 100 % of Goli's forecasted need plus an  
10 additional 40% over and above the forecasted needs.

11 43. At this time, there was a scarcity in gummy manufacturing capacity in  
12 the market. But by its agreements with Goli, Better Nutritionals was prohibited from  
13 using any excess capacity to manufacture for any purchaser who sold "Competing  
14 Products." Competing Products is defined in the agreements with incredible and  
15 unnecessary overbreadth.

16 44. The agreements state:

17 **"Competing Products"** means any products that are the same as or  
18 substantially similar to Goli Products. A product will be considered the  
19 same as or substantially similar to Goli Products if it contains the same  
20 or substantially similar active ingredient(s) as those in Goli Products or  
21 the same main marketed ingredients as Goli Products.  
22

23 45. Under the agreements Goli insisted that Better Nutritionals terminate  
24 existing client relationships and forgo new relationships. Better Nutritionals  
25 terminated its relationship with Pharmacare (Sambucol) and Vesco Vitamins LLC,  
26 for which Better Nutritionals had manufactured a line of gummy products. Better  
27 Nutritionals also turned down substantial business opportunities from major  
28

1 marketers of nutritional products, including Nestle, Garden of Life, Nature’s Bounty,  
2 and Sports Research.

3 46. DLA Piper served as counsel for both Goli and Better Nutritionals in the  
4 negotiation of those agreements. In violation of its fiduciary duties to Better  
5 Nutritionals, DLA Piper failed to include any limitation on the breadth of these over-  
6 broad restrictions, any limitation on these obligations, or any protections for Better  
7 Nutritionals from abuse by Goli.

8 47. Further DLA Piper failed to include in these agreements any  
9 requirement that Goli purchase products exclusively from Better Nutritionals, or that  
10 the “buffer be reduced or suspended if Goli failed to meet certain product purchase  
11 thresholds. Nor did the Stock Swap agreements provide any other protections for  
12 Better Nutritionals such as a minimum “take or pay” commitment, that would limit  
13 Better Nutritionals loss in the event that Goli failed to meet its projected purchases.  
14 Those limitations on Goli would have been expected in agreements of this type that  
15 had been negotiated at arm’s length by different attorneys representing the competing  
16 interests of each of the parties.

17 **D. Better Nutritionals Scales Up to Keep Up With Goli’s Sales Forecasts**

18 48. Goli, Agarwal, and Bitensky knew the effort, expense and risk that  
19 Better Nutritionals faced to meet Goli’s increasingly large production demands. In  
20 2021 alone, Better Nutritionals hired **600** employees to keep up with Goli’s sales  
21 forecasts, yet staff still routinely worked overtime.

22 49. Better Nutritionals also spent heavily on the supplies and services  
23 necessary to manufacture Goli products. Of course, each dollar represented further  
24 exposure to third-parties, because Better Nutritionals was responsible for funding  
25 these materials and services, regardless of whether Goli changed its production  
26 demands. In 2021, when Goli accounted for 93% of Better Nutritionals’ revenue,  
27 Better Nutritionals paid over \$200,000,000 to over 500 vendors to obtain, among  
28

1 other things, the raw ingredients, packaging materials, and the technical and  
2 logistical support for Goli products.

3 50. Better Nutritionals' supply orders eventually became so large that some  
4 suppliers asked Better Nutritionals to substantiate the need for its orders by providing  
5 a matching purchase order from Goli. At Better Nutritionals' request, Goli supplied  
6 a purchase order, which Better Nutritionals provided to its suppliers. Goli continued  
7 to submit sales forecasts that Better Nutritionals would immediately act upon by  
8 reserving production capacity, ordering ingredients, and beginning production. Goli  
9 insisted that Better Nutritionals maintain enough raw materials for 3 months'  
10 manufacturing need (based on Goli's projections) due to the supply chain challenges  
11 in 2021 following the Covid pandemic.

12 51. In order to meet Goli's projections and representations, Better  
13 Nutritionals' projected production capacity for Goli products would continue on a  
14 straight-line increase throughout 2021. Better Nutritionals' "Total Practical  
15 Capacity" of 4,759,772 bottles per month in April of 2021 was set to increase to  
16 6,310,194 bottles in May, 7,180,538 in June, 8,225,017 in July, 9,49,718 in August,  
17 and to a staggering 12,762,753 by December. Based on Goli's projections and  
18 promises, Better Nutritionals sought to reach a peak manufacturing capacity of **28**  
19 **million** bottles per month by the third quarter of 2022.

20 52. In July of 2021 Goli submitted a purchase order for **75 million** bottles  
21 July 16, 2021, for which Goli committed to pay Better Nutritionals \$281,000,000.  
22 At the time that this purchase order was submitted, Goli, its Board of Directors and  
23 the VMG entities were aware that Goli could not use and would never pay for all of  
24 the product ordered. Ultimately Goli refused to take delivery or pay for \$160 million  
25 of that purchase order.



53. In addition, also in July, Goli gave a verbal purchase order another for **300 million** bottles, for which Goli committed to pay Better Nutritionals \$1,125,000,000 over a three year period. Agarwal and Goli's Controller communicated the 300 million bottle order directly to Better Nutritionals' COO, as well as to the owner of the bottle manufacturer, Comar. Goli, its Board of Directors and the VMG entities were aware of that order and they were also aware that Goli would never need anything close to that number of bottles in the periods specified.. At that time, Defendant Agarwal stated that the deal with VMG had been reached and that the parties were in the process of negotiating the final documents.

**E. Goli Suddenly Radically Downsizes its Orders and Refuses to Take Delivery or Pay for Product it had Ordered.**

54. In July, Defendant Agarwal complained about a "shortfall" in Better Nutritionals production of two to three million bottles of gummies. A few weeks later, Goli requested a meeting with Better Nutritionals, which occurred on August 10, 2021. Agarwal, Bitensky, Hoffman, and Better Nutritionals' CFO and COO attended. During the meeting, Goli announced that it would cut its sales forecast by a staggering **56%**, from Nine million to four million bottles in August, and from 12 million bottles to 6.4 million bottles in December. For 2022 the numbers dropped from 15 million bottles per month to 6-7 million bottles per month. Goli provided a revised forecast reflecting this cut. Hoffman wrote to Agarwal at the time that the news was "shocking."

55. Goli also made clear that *it would not honor* the full July purchase order and announced to that it held a surplus in its warehouses of **12 to 14 million bottles**. In May, June and July Better Nutritionals only produced a total of 12,910,285 bottles. At some point **long prior to July 2021, Goli clearly was aware that the projections** being submitted to Better Nutritionals and on which Better Nutritionals was reasonably relying, **were knowingly false and a fraud on Better Nutritionals**. Goli knew before May 2021 that **it was unable to sell any** of the additional bottles

1 that Better Nutritionals was producing in May, June and July. In reliance on Goli's  
2 fraudulent statements, Better Nutritionals incurred substantial costs that would have  
3 been avoided had Goli not made its knowingly false projections and submitted  
4 knowingly fraudulent purchase orders that it never intended to honor.

5 56. Agarwal stated in August 2021 that nearly a few months earlier, in June  
6 of 2021, he had just learned that consumer demand had dropped, which he attributed  
7 to a hodge-podge of unverified issues with Facebook's advertising algorithm. On  
8 information and belief Goli was well aware of a drop in consumer demand long  
9 before that. Goli's own emails and purchase orders confirm its deception. For  
10 months, it told Better Nutritionals that Goli faced substantial customer backorders.  
11 Those representations were knowingly false. Better Nutritionals reasonably relied on  
12 those representations and incurred significant costs for the purchase of ingredients as  
13 well as related labor and other manufacturing costs.

14 57. Sharon promptly wrote to Goli to advise it that based on Goli's new  
15 information Better Nutritionals had substantial excess capacity which it sought to use  
16 to manufacture products for other customers. Better Nutritionals agreed to make  
17 Goli its first priority for production of product for Goli was impacted by producing  
18 for other customers. Nonetheless, Goli continued to insist that Better Nutritionals  
19 keep a 40% "buffer" capacity over the amount being forecast by Goli. Goli also  
20 insisted that "Better Nutritionals will not onboard Goli competitors or use the Goli  
21 mold/bottle." Because of the onerous definition of "Goli competitors," that  
22 restriction severely limited the customers Better Nutritionals could work for. In light  
23 of Goli's July oral purchase order for 300 million bottles, the continued insistence on  
24 the limitation on the use of the Goli mold/bottle exposed Better Nutritionals to  
25 substantial penalty payments that Better Nutritionals was not able to mitigate by  
26 using those bottles for other customers.

27 58. By the summer of 2021, VMG had still not finalized its investment in  
28 Goli. While Goli waited for the VMG deal to close, Agarwal repeatedly urged Better

1 Nutritionals to “stay the course” and maintain production capacity for Goli. In fact,  
2 Goli claimed that its orders would rise by the end of the year and soon return to at  
3 least 6 million bottles per month, then eventually reach 12 to 15 million bottles per  
4 month. On information and belief, VMG was aware of those representations and both  
5 Goli and VMG knew that those representations were false.

6 59. Better Nutritionals relied on those false representations in the continued  
7 conduct of its business. It later became clear that Goli’s continued  
8 misrepresentations and unwillingness to help Better Nutritionals reduce the losses  
9 caused by Goli’s breach of its commitments to purchase products it had ordered were  
10 part of a plan to inflict unsustainable losses on Better Nutritionals and thereby to  
11 force it into a sale of the Company that would be to Goli’s benefit.

12 60. The VMG deal closed in October of 2021, resulting in a \$100 million  
13 purchase of a 4.5% equity stake which it purchased from Defendants Agarwal and  
14 Bitensky. As a 3% owner of Goli, Sharon Hoffman said that he should have been  
15 offered to participate *pari passu* in the VMG purchase of equity. Agarwal agreed, but  
16 on information and belief Goli never sought to include Sharon Hoffman in the sale of  
17 equity. To justify that failure Defendant Agarwal represented to Sharon that VMG  
18 would be having an Initial Public Offering in a few months, and that at that time  
19 Better Nutritionals’ stock in Goli would be worth much more than the current  
20 valuation. That representation was knowingly false. On information and belief,  
21 VMG was aware that Goli would make that representation and was aware of its  
22 falsity. Goli claimed to have a valuation \$2.5 billion, at that time. On informationa  
23 and belief, that claim was knowingly false.

24 61. Goli and VMG had a different plan in mind. Instead of an IPO in the  
25 short term, Defendant Agarwal proposed that he could force Better Nutritionals into  
26 a sale to a buyer who was committed to expanding Goli’s business. Once that sale  
27 occurred, the Goli could effectively claim the benefits of vertical integration and shift  
28 to Goli the profits Better Nutritionals would earn under the existing arrangement.

1           62. In furtherance of that plan, once the VMG deal closed, Goli presented  
2 Better Nutritionals with a sales forecast for the first half of 2022 of only **600,000**  
3 bottles per month, representing a 94% decline from the 9 million bottles per month  
4 Goli had claimed it would need just a few months earlier, and an 80% decline from  
5 the 3 million bottles per month in Goli's July 2021 sales forecast.

6           63. Shortly thereafter, in November 2021, Yundi Liang, an employee of  
7 Better Nutritionals with a degree in food science and significant familiarity with  
8 Better Nutritionals confidential suppliers, and trade secret processes, left Better  
9 Nutritionals and shortly thereafter went to a competitor producer of gummy products,  
10 defendant Merical. Apparently, unknown to the Hoffmans or Better Nutritionals,  
11 VMG and Goli were planning to divert production of Goli products from Better  
12 Nutritionals to Merical.

13           64. Sometime thereafter, Better Nutritionals received a phone call from one  
14 of its vendors, Herbstreith & Fox, asking about an inquiry they received from a  
15 gummy manufacturer. The gummy manufacturer was Merical. Merical asked about  
16 Pectin, one of the main raw materials Better Nutritionals uses. Herbstreith & Fox  
17 gave them over a dozen different options but they asked specifically for one option,  
18 which was the exact formulation Better Nutritionals purchased from Herbstreith &  
19 Fox. Merical referenced the item number specifically which is not a published  
20 number and is only known by Herbstreith & Fox and Better Nutritionals. This  
21 particular pectin was formulated specifically for Better Nutritionals due to its unique  
22 formulation requirement.

23           65. Shortly before that call, a Production employee that worked for Merical  
24 for approximately 12 years, left Merical and was hired at Better Nutritionals as a  
25 production employee. This Production employee was at Better Nutritionals for 2  
26 weeks, then left. Better Nutritionals confirmed that he went back to Merical. As a  
27 production employee, he had access to Better Nutritionals' batch records, cooking  
28 sheets, recipes, and confidential information about suppliers. At about the same

1 time, Better Nutritionals learned that Goli and Merical had called Better Nutritionals'  
2 flavor supplier, Custom Flavors, and sought the exact flavor that Better Nutritionals  
3 was using to manufacture the Goli gummies.

4 66. In March of 2022, Sharon and Odelya Hoffman met for dinner with  
5 Wayne Wu, one of the directors appointed by VMG to the Goli Board. The next day,  
6 Sharon and Odelya met with Johnathan Marshall, another director appointed by  
7 VMG to the Goli Board. In those meetings, Sharon and Odelya explained that Better  
8 Nutritionals had been placed in an impossible position by Goli's repeated  
9 misrepresentations about its need for product and continued refusal to honor its  
10 purchase orders.

11 67. Goli's failure to honor purchase orders was particularly acute with  
12 respect to \$18 million worth of Goli gummies that already had been manufactured  
13 for Goli because those products have a limited shelf life. The refusal to honor the  
14 300 million bottle verbal purchase order creates a particular problem because Better  
15 Nutritionals has a penalty fee of 2 cents per bottle if Better Nutritionals fails to take  
16 delivery of the bottles.

17 68. Following that meeting, instead of any effort to have Goli live up to its  
18 obligations, VMG continued with its plan to shift production from Better Nutritionals  
19 to Merical. In breach of its obligations of confidentiality, and its fiduciary duties to  
20 Better Nutritionals as a shareholder of Better Nutritionals, with the knowledge and  
21 agreement of VMG and the Goli Board, Goli sought to enable Merical to unlawfully  
22 use Better Nutritionals trade secret information in competition with Better  
23 Nutritionals.

24 69. In July of 2022, Agarwal and Bitensky visited Better Nutritionals'  
25 Norco facility and informed Hoffman and Better Nutritionals' CFO and COO that  
26 the terms of Goli's deal with VMG require Goli to work with other gummy  
27 manufacturers to produce Goli-branded product. The deal with VMG had been  
28 finalized the prior October. Apparently Goli and VMG waited to ensure that VMG

1 could obtain and use Better Nutritionals trade secrets before announcing this contract  
2 term supposedly agreed to nearly a year earlier. Goli did not plan to acquire gummy  
3 products from Merial until October. It then projected that it would buy 250,000  
4 bottles of gummies from Merial in October 2021, and 500,000 bottles of gummies  
5 from Merial in November. We are unaware of the amount of purchases made in the  
6 last year, but even at a steady state of the 500,000 November 2021 rate, that would  
7 amount to 6 million bottles, and the total paid to Merial, rather than to Better  
8 Nutritionals would be over \$25 million.

9 **J. The Fallout and Substantial Harm That Goli, Agarwal, and Bitensky**  
10 **Caused to Better Nutritionals**

11 70. The consequences of Goli's precipitous drop in production demand  
12 were swift, severe, predictable, and — according to the plan Goli engineered —  
13 borne disproportionately by Better Nutritionals. With monthly revenue plummeting,  
14 Better Nutritionals now faced payment obligations for the Norco Lease, for IT  
15 services and equipment, and to third-party suppliers of ingredients, materials, staff,  
16 and packaging necessary to produce Goli's product, in addition to payroll and capital  
17 improvement costs. Better Nutritionals had been a significant driver of the local  
18 economy but now had to layoff its valued employees. Better Nutritionals had  
19 incurred these obligations and hired these employees for the sole purpose of keeping  
20 up with Goli's false sales forecasts and purchase orders.

21 71. In September of 2021, Better Nutritionals had been valued at \$1.35  
22 billion. As of this filing, Goli is seeking to force Better Nutritionals to take an offer  
23 from a third-party buyer that values Better Nutritionals at under \$90 million.. To  
24 make matters worse, Better Nutritionals has had to contend with a looming financial  
25 disaster without the lucrative business opportunities that it had terminated or turned  
26 down at Goli's behest (such as Nestle, Garden of Life, Nature's Bounty, and Sports  
27 Research). Goli has recently demanded a materially lower price-per-bottle.  
28 Apparently, Goli understands that it pushed Better Nutritionals into a corner and now

1 believes that it can take what it wants, when it wants it, and pay what it chooses to  
2 pay and when it chooses to pay.

3 72. Accordingly, Goli owes Better Nutritionals \$180 million for orders that  
4 it placed throughout 2022, including charges for finished goods for that Goli refuses  
5 to accept. Goli also owes Better Nutritionals tens of millions of dollars to Better  
6 Nutritionals for raw materials, packaging, penalties, and storage costs, as well as for  
7 the labor necessary to produce the massive monthly quantities in Goli's sales  
8 forecasts and purchase orders. Under common law subrogation, therefore, Goli also  
9 liable for over \$100 million expended by Better Nutritionals in tenant improvements  
10 and equipment purchases.

### 11 **FIRST CAUSE OF ACTION**

#### 12 **(Defend Trade Secrets Act Against the Goli Defendants, the VMG** 13 **Defendants, and Mercial)**

14 73. Better Nutritionals incorporates each of the preceding paragraphs as if  
15 fully set forth herein.

16 74. Better Nutritionals was the owner of the above-mentioned trade secrets,  
17 including but not limited to the processes it used to make its gummy products and  
18 specific details and item numbers of custom produced supplies Better Nutritionals  
19 ordered to produce its gummy products, suppliers and formulations. Those trade  
20 secrets are "trade secrets" within the meaning of 18 U.S.C. §1839 (3).

21 75. The Goli Defendants, the VMG Defendants and Defendant Mercial  
22 obtained and misappropriated those trade secrets by improper means within the  
23 meaning of 18 U.S.C. §1839 (5) and (6). Such misappropriation was willful and  
24 malicious.

25 76. Accordingly, pursuant to 18 U.S.C. § 1836 (b)(3) Better Nutritionals is  
26 entitled to an award of damages for actual loss caused by the misappropriation of the  
27 trade secrets and damages for any unjust enrichment caused by the misappropriation  
28 of the trade secrets that is not addressed in computing damages for actual loss, in an



1 amount to be proven at trial, but no less than \$50 million, exemplary damages of two  
2 times the compensatory loss for additional damages of no less than \$100 million, and  
3 attorneys' fees..

4 77. Better Nutritionals is also entitled pursuant to 18 U.S.C. § 1836 (b)(2)  
5 to civil seizure of all product manufactured for Goli using Better Nutritional trade  
6 secrets injunctive relief pursuant to 18 U.S.C. § 1836 (b)(3)(A) prohibiting the Goli  
7 Defendants, the VMG Defendants and Merical or any other manufacturer supplying  
8 products to Goli from continuing to use Better Nutritionals trade secrets and  
9 prohibiting the continued employment by Merical of former employees of Better  
10 Nutritionals who had access to Better Nutritionals trade secrets.

## 11 **SECOND CAUSE OF ACTION**

### 12 **(Fraudulent Misrepresentations against the Goli Defendants )**

13 78. Better Nutritionals incorporates each of the preceding paragraphs as if  
14 fully set forth herein.

15 79. As a result of Better Nutritionals' reasonable reliance on the foregoing  
16 intentional fraudulent misrepresentations by the Goli Defendants, Better Nutritionals  
17 suffered monetary damages and Better Nutritionals' hard-earned reputation has been  
18 severely damaged causing damages that continue to increase and will be proven at  
19 trial but no less than \$300 million.

## 20 **THIRD CAUSE OF ACTION**

### 21 **(Aiding and abetting against the VMG Defendants)**

22 80. Better Nutritionals incorporates each of the preceding paragraphs as if  
23 fully set forth herein.

24 81. At all times commencing at least in July 2021, the VMG Defendants  
25 were aware of the Goli Defendants intentional fraudulent misrepresentations, and  
26 Goli's intention to defraud Better Nutritionals. With that awareness, the VMG  
27 Defendants provided substantial assistance to Goli's efforts to defraud Better  
28 Nutritionals. That substantial assistance included the VMG Defendants' approval of

1 and, through its appointed directors on Goli's Board, participation in Goli's breaches  
2 of its contractual obligations to Better Nutritionals, as well as Goli's intentional  
3 violations of Better Nutritionals confidential information and trade secrets.

4 82. As a result of the foregoing, the VMG Defendants are jointly and  
5 severally liable for the damages incurred by Better Nutritionals damages that  
6 continue to increase and will be proven at trial but no less than \$300 million.

7 **FOURTH CAUSE OF ACTION**

8 **(Violation of the Racketeer Influenced and Corrupt Organizations Act**  
9 **(RICO) against Goli, Agarwal, and Bitensky)**

10 83. Better Nutritionals incorporates each of the preceding paragraphs as if  
11 fully set forth herein.

12 84. The RICO Defendants, Goli, Agarwal, and Bitensky, individually and  
13 acting for one another and in concert with each other, have committed the  
14 following predicate acts of "racketeering activity" within the meaning of 18  
15 U.S.C. § 1961(1). The RICO Defendants have engaged in a "pattern of  
16 racketeering activity" within the meaning of 18 U.S.C. § 1961(6) by numerous  
17 acts of racketeering activity over a several year period.

18 85. The intentionally fraudulent misrepresentations alleged above were  
19 conveyed either by telephone, or by e-mail, or by other means of electronic  
20 communication using the facilities of the internet. Those fraudulent  
21 misrepresentations therefore constitute wire fraud in violation of 18  
22 U.S.C. § 1343.

23 86. The wrongful acts alleged constitute a pattern of racketeering activity  
24 which occurred after January 1, 1992 and are within a 10 year period of each  
25 other and this action as prescribed by 18 U.S.C. § 1961(5).

26 87. Throughout the relevant time period, Goli was an "enterprise" within  
27 the meaning of 18 U.S.C. § 1961 (4). In addition, the individual RICO  
28

1 Defendants. acted as an association-in-fact and “enterprise” within the meaning  
2 of 18 U.S.C. § 1961(4).

3 88. The RICO Defendants have conducted and participated in, directly  
4 or indirectly, the affairs of the enterprises described above through the pattern of  
5 racketeering activity described above in violation of 18 U.S.C. § 1962(c). All RICO  
6 defendants, exercised control over the above mentioned enterprises through the  
7 acts of each other and in agreement and conspiracy with each other, as part of  
8 their fraudulent scheme. The RICO Defendants have conspired to violate 18  
9 U.S.C. §§ 1962(a), and 1962(c) through a pattern of racketeering activities, in  
10 violation of 18 U.S.C. § 1962(d).

11 89. Better Nutritionals has been injured in its businesses and property  
12 by reasonable reliance upon the false and fraudulent misrepresentations and  
13 omissions to state material facts by the RICO Defendants, including, those set  
14 forth and referred to above.

15 90. Defendants have violated 18 U.S.C. §§ 1962(c) and 1962(d) and  
16 as a proximate result of the aforesaid violations, plaintiffs have suffered  
17 damages in the amounts of not less than \$300 million, plus consequential  
18 damages, in an aggregate amount to be proven at trial.

19 91. By reason of such violations, the RICO Defendants are liable to  
20 plaintiff for treble the damages sustained by Plaintiff, as well as Better  
21 Nutritionals’ costs of suit and reasonable attorneys’ fees pursuant to RICO  
22 §1962(c).

### 23 **FIFTH CAUSE OF ACTION**

#### 24 **(Securities Fraud against Goli, Agarwal, and Bitensky)**

25 92. Better Nutritionals brings this cause of action alternatively should the  
26 Court determine that no breach occurred as pled in the Fifth Cause of Action.

27 93. In engaging in the actions and course of conduct alleged with respect  
28 to the Stock Swap, Goli, Agarwal, and Bitensky each, on more than one occasion,

1 used a manipulative and deceptive device or contrivance in connection with the  
2 purchase and or sale of securities; made untrue statements of material facts and  
3 omitted to state material facts necessary in order to make the statements, in light of  
4 the circumstances under which they were made, not misleading; and engaged in  
5 acts and manipulative practices which were intended by defendants to operate and  
6 did operate as a fraud or deceit upon Plaintiff, all in violation of Section 10(b) of  
7 the Securities Exchange Act and Rule 10b-5. In particular, the representation  
8 that 3% of Goli Inc. stock was equivalent in value to 25% of the ownership of  
9 Better Nutritionals was knowingly false and fraudulent. The issuance of  
10 promissory notes without any date on which the notes are due was a deceptive  
11 device or contrivance.

12 94. As a direct and proximate result of the violation of Section 10(b) and  
13 Rule 10b-5, Better Nutritionals sustained actual and incidental damages. Goli  
14 deprived Better Nutritionals of the profits to which Better Nutritionals is entitled to  
15 void the purchase by Goli of 25% of Better Nutritionals.

## 17 **SIXTH CAUSE OF ACTION**

### 18 **(Breach of Contract or Alternatively Breach of Output / Requirements** 19 **Contract against Goli)**

20 95. Better Nutritionals incorporates each of the preceding paragraphs as if  
21 fully set forth herein.

22 96. At all relevant times, Agarwal and Bitensky were Goli's principals,  
23 were central to decision-making and day-to-day operations at Goli, routinely  
24 communicated with Better Nutritionals regarding matters material to this cause of  
25 action, and made material statements on which Better Nutritionals relied.

26 97. At all relevant times, Better Nutritionals and Goli were capable of  
27 contracting.

28

1           98. At all relevant times, and at least as early as May of 2019, Better  
2 Nutritionals agreed to produce and Goli promised to purchase Goli-branded  
3 nutritional gummies in a quantity measured by the requirements that Goli provided  
4 from time to time, but at minimum the entire output that Better Nutritionals could  
5 produce. Goli delivered to Better Nutritionals purchase orders that it has failed to  
6 honor that at this time amounting to \$180 million.

7           99. In addition, from time to time, Goli provided Better Nutritionals with  
8 sales forecasts and purchase orders that conveyed estimates of Goli's inventory  
9 requirements to serve as reasonable guideposts for Better Nutritionals as to  
10 production capacity and supplies.

11           100. At all relevant times, Better Nutritionals put forth its best efforts in good  
12 faith to produce at least the quantity of bottles in each of Goli's sales forecasts and  
13 purchase orders by reserving production capacity, ordering ingredients, and  
14 beginning production immediately.

15           101. Better Nutritionals performed all of its other duties, covenants, and  
16 promises under the Parties' agreement.

17           102. Only Goli had actual knowledge of consumer demand for its products,  
18 and its resulting inventory needs. This information was not available to Better  
19 Nutritionals. Thus, Goli was obligated to act in good faith by submitting to Better  
20 Nutritionals sales forecasts and purchase orders that accurately conveyed Goli's  
21 inventory needs. In violation of this obligation, Goli submitted sales forecasts and  
22 purchase orders to Better Nutritionals that did not reflect actual consumer demand  
23 for its products. Indeed, at certain times, Goli knew that consumer demand for its  
24 products was declining, that it did not need and did not intend to accept the quantity  
25 of bottles in its sales forecasts and purchase orders.

26           103. Goli was obligated to act in good faith by purchasing at a the agreed  
27 price per bottle Better Nutritionals' output of Goli-branded nutritional gummies,  
28 which Better Nutritionals produced in good faith based upon Goli's sales forecasts

1 and purchase orders. In violation of these obligations, Goli failed to purchase Better  
2 Nutritionals output of Goli-branded nutritional gummies.

3 104. Goli breached its contracts with Better Nutritionals. In addition, as a  
4 direct and proximate result of Goli's bad faith, Better Nutritionals sustained actual  
5 and incidental damages. Goli deprived Better Nutritionals of the profits to which  
6 Better Nutritionals would have been entitled had Goli performed under the contract  
7 and caused Better Nutritionals to incur substantial and unavoidable costs to perform  
8 under the contract such that it will not be able to reduce its damages by non-  
9 performance. Accordingly, damages are due to Better Nutritionals from Goli in an  
10 amount to be proven at trial of no less than \$ 200 million.

### 11 **SEVENTH CAUSE OF ACTION**

#### 12 **(Legal Malpractice against DLA Piper)**

13 105. Better Nutritionals incorporates each of the preceding paragraphs as if  
14 fully set forth herein.

15 106. In acting as counsel for both Goli and also Better Nutritionals and  
16 Sharon Hoffman, and failing to act to obtain and preserve critical rights of Better  
17 Nutritionals and Sharon Hoffman, DLA Piper failed to exercise the ordinary  
18 reasonable skill and knowledge commonly possessed by a member of the legal  
19 profession. But for DLA Piper's malpractice, Plaintiff would not have been in the  
20 position a) where Goli could refuse to pay for \$180 million of product it had ordered,  
21 b) where Goli could dramatically curtail its purchases from Better Nutritionals  
22 substantial advance notice and without penalty, c) where Better Nutritionals paid all  
23 lease expenses, tenant improvement expenses and purchases of equipment, but Goli  
24 was able to retain its position as tenant and title to all equipment, and d) where Goli  
25 could shift production away from Better Nutritionals. Accordingly, Plaintiff is  
26 entitled to damages in an amount to be proven at trial but no less than \$400 million.

1           107. As a result of the foregoing, Plaintiffs have been damaged as a result of  
2 Defendant's malpractice in an amount to be determined at trial, but no less than \$200  
3 million.

4                           **EIGHTH CAUSE OF ACTION**

5                           **(Breach of Fiduciary Duty against DLA Piper)**

6           108. Better Nutritionals incorporates each of the preceding paragraphs as if  
7 fully set forth herein.

8           109. As counsel for Better Nutritionals, DLA Piper had fiduciary duties to its  
9 client.

10          110. DLA Piper breached its fiduciary duty to Better Nutritionals when  
11 acting as counsel for both Goli and also Better Nutritionals and Sharon Hoffman, by  
12 placing the interests of Goli above the interests of Better Nutritionals and Sharon  
13 Hoffman and failing to act to obtain and preserve critical rights of Better Nutritionals  
14 and Sharon Hoffman. But for DLA Piper's breaches of its fiduciary duties to Better  
15 Nutritional, Better Nutritionals would not have been in the position a) where Goli  
16 could refuse to pay for \$158 million of product it had ordered, b) where Goli could  
17 dramatically curtail its purchases from Better Nutritionals substantial advance notice  
18 and without penalty ,c) where Better Nutritionals paid all lease expenses, tenant  
19 improvement expenses and purchases of equipment, but Goli was able to retain its  
20 position as tenant and title to all equipment, and d) where Goli could shift  
21 production away from Better Nutritionals.

22          111. As a result of the foregoing, Plaintiffs have been damaged as a result of  
23 Defendant's malpractice in an amount to be determined at trial, but no less than \$200  
24 million.

25                           **NINTH CAUSE OF ACTION**

26                           **(Subrogation against Goli)**

27          112. Better Nutritionals incorporates each of the preceding paragraphs as if  
28 fully set forth herein.



1 113. As previously alleged, Goli is the tenant at the Norco facility, and the  
2 “customer” on the purchases of equipment, while Better Nutritionals is only the  
3 “guarantor” of those agreements.

4 114. Accordingly, Better Nutritionals has a right of subrogation to recover  
5 over \$100 million it expended as guarantor for the benefit of the tenant and the title  
6 holder to the manufacturing equipment at the Norco facility.

7  
8 **WHEREFORE**, Better Nutritionals respectfully requests judgment against  
9 defendants and each of them as follows:

10 a) As to the First Cause of Action (i) damages for actual loss caused by the  
11 misappropriation of the trade secrets, and (ii) damages for any unjust enrichment  
12 caused by the misappropriation of the trade secrets that is not addressed in  
13 computing damages for actual loss, collectively in an amount to be proven at trial  
14 but no less than \$ 50 million together with (iii) exemplary damages of two times  
15 the compensatory loss (an additional \$100 million) and (iv) attorneys’ fees;

16 b) As to the Second and Third Causes of Action for damages in an amount  
17 to be proven at trial, but no less than \$300 million;

18 c) As to the Fourth Cause of Action for treble the compensatory damages  
19 sustained by plaintiff of no less than \$300 million, or \$900 million as well costs  
20 of suit and reasonable attorneys' fees;

21 d) As to the Fifth Cause of Action for an order voiding Goli’s acquisition  
22 of a 25% interest in Better Nutritionals;

23 e) As to the Sixth Cause of action for damages in an amount to be proven  
24 at trial, but no less than \$200 Million

25 f) As to the Seventh and Eighth Cause of Action, for damages in an amount  
26 to be proven at trial, but no less than \$200 million;

27 g) As to the Ninth Cause of Action for damages in an amount to be proven  
28 at trial, but no less than \$100 million.

1 h) As to all Causes of Action, for costs, pre-judgment interest and  
2 such other and further relief that the Court deems proper.  
3

4 PLAINTIFF HEREBY DEMANDS A JURY TRIAL PURSUANT TO LOCAL  
5 RULE 38-1.

6 DATED: December 18, 2022

7 Respectfully Submitted,  
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